

NOTE 4: Paragraph (a) of this section will not be applied so as to require the divestiture of ownership interests proscribed herein solely because of the transfer of such interests to heirs or legatees by will or intestacy, provided that the degree or extent of the proscribed cross-ownership is not increased by such transfer.

NOTE 5: In applying the provisions of paragraphs (d) and (e) of this section, control and an attributable ownership interest shall be defined by reference to the definitions contained in Notes 1 through 4, provided however, that:

(a) The single majority shareholder provisions of Note 2(b) and the limited partner insulation provisions of Note 2(g) shall not apply; and

(b) The provisions of Note 2(a) regarding five (5) percent interests shall include all voting or nonvoting stock or limited partnership equity interests of five (5) percent or more.

[58 FR 27677, May 11, 1993, as amended at 60 FR 37834, July 24, 1995; 61 FR 15388, Apr. 8, 1996]

**§ 76.502 Time limits applicable to franchise authority consideration of transfer applications.**

(a) A franchise authority shall have 120 days from the date of submission of a completed FCC Form 394, together with all exhibits, and any additional information required by the terms of the franchise agreement or applicable state or local law to act upon an application to sell, assign, or otherwise transfer controlling ownership of a cable system.

(b) A franchise authority that questions the accuracy of the information provided under paragraph (a) must notify the cable operator within 30 days of the filing of such information, or such information shall be deemed accepted, unless the cable operator has failed to provide any additional information reasonably requested by the franchise authority within 10 days of such request.

(c) If the franchise authority fails to act upon such transfer request within 120 days, such request shall be deemed granted unless the franchise authority and the requesting party otherwise agree to an extension of time.

[61 FR 15388, Apr. 8, 1996]

**§ 76.503 National subscriber limits.**

(a) Except as set forth in paragraph (b) of this section no person or entity shall be permitted to reach more than 30 percent of all homes passed nationwide through cable systems owned by such person or entity or in which such person or entity holds an attributable interest.

(b) Ownership of cable systems reaching up to 35 percent of all homes passed nationwide shall be permitted provided the additional cable systems, beyond 30 percent of homes passed nationwide, are cable systems, beyond 30 percent of homes passed nationwide, are minority-controlled.

(c) Prior to acquiring additional cable systems any person or entity holding an attributable interest in cable systems reaching 20 percent, or more, of homes passed nationwide must certify to the Commission that no violation of the national subscriber limits prescribed in this section will occur as a result of such acquisition.

(d) *Minority-controlled* means more than 50 percent owned by one or more members of a minority group.

(e) *Minority* means Black, Hispanic, American Indian, Alaska Native, Asian and Pacific Islander.

(f) *Attributable interest* shall be defined by reference to the criteria set forth in the Notes to § 76.501.

[58 FR 60141, Nov. 15, 1993]

**§ 76.504 Limits on carriage of vertically integrated programming.**

(a) Except as otherwise provided in this section no cable operator shall devote more than 40 percent of its activated channels to the carriage of national video programming services owned by the cable operator or in which the cable operator has an attributable interest.

(b) The channel occupancy limits set forth in paragraph (a) of this section shall apply only to channel capacity up to 75 channels.

(c) A cable operator may devote two additional channels or up to 45 percent of its channel capacity, whichever is greater, to the carriage of video programming services owned by the cable operator or in which the cable operator has an attributable interest provided